

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL NO. 1456
LITIGATION)	Civil Action No. 01-12257-PBS
_____)	
)	Hon. Patti B. Saris
THIS DOCUMENT RELATES TO)	
ALL CLASS ACTIONS)	Chief Mag. Judge Marianne B. Bowler
_____)	

**THE TRACK 1 DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT WITH RESPECT TO CLASS 3**

The Track 1 Defendants respectfully move this Court for an order granting summary judgement with respect to class 3 and for such other and further relief as the Court deems just and appropriate. The grounds for this motion are set forth in the accompanying Memorandum of Law and materials cited therein, the Declaration of Andrew D. Schau and the exhibits thereto, and the Declaration of Eric. M. Gaier in Support of the Track 1 Defendants' Joint Motion for Summary Judgement With Respect to Class 3 dated July 14, 2006.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d) the undersigned counsel hereby request oral argument on the issues set forth in this motion and the accompanying memorandum of law and declarations.

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certify that counsel for defendants conferred with counsel for plaintiffs regarding the issues addressed in this motion, but were unable to resolve or further narrow the issues.

Respectfully submitted,

Dated: July 14, 2006

/s/ William F. Cavanaugh, Jr.

William F. Cavanaugh, Jr.

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behalf of all Track 1 Defendants*

CERTIFICATE OF SERVICE

I certify that on July 14, 2006, a true and correct copy of The Track 1 Defendants' Motion For Summary Judgment With Respect To Class 3 was served on all counsel by electronic service in accordance with Case Management Order 2.

/s/ Andrew D. Schau

Andrew D. Schau